

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

KEVIN MILAZZO, #1385992 §  
VS. § CIVIL ACTION NO. 6:11CV350  
SGT LEONARD D. YOUNG, ET AL. §

## ORDER ADOPTING REPORT AND RECOMMENDATION

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, recommends that Plaintiff's claims against Defendants Texas Department of Criminal Justice, Warden Wheat, Capt. Funai and "Unknown Officer" be dismissed. It further recommends that Defendant Sergeant Young be required to answer the claim of excessive use of force against Plaintiff on or about November 19, 2009, and of retaliation related to the same incident. No objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore

**ORDERED** that Defendants Texas Department of Criminal Justice, Warden Wheat, Capt. Funai and “Unknown Officer” are hereby dismissed. It is further

**ORDERED** that Defendant Sergeant Young shall be ordered to answer the claims of excessive use of force against Plaintiff on or about November 19, 2009, and of retaliation related to the same incident.

**It is SO ORDERED.**

**SIGNED this 4th day of January, 2012.**



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MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE